

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**JOHN PAUL THOMAS,**

**Petitioner,**

**v.**

**No. CV 09-0174 RB/LAM**

**JAMES JANECKA, WARDEN,**

**Respondent.**

**ORDER DENYING PETITIONER'S DISCOVERY MOTIONS AS PREMATURE**

**THIS MATTER** is before the Court on Petitioner's *Motion to Conduct Limited Discovery* (*Doc. 10*), filed on May 6, 2009, and his *Request to Produce Documents and Tangible Things* (*Doc. 11*), filed on May 6, 2009, which the Court construes as a motion. In his motions, Petitioner asks the Court for leave to conduct discovery in this habeas corpus proceeding brought pursuant to 28 U.S.C. § 2241. Having reviewed both motions, the record of this case and relevant law, the Court **FINDS** that the motions should be **DENIED** without prejudice, as premature, for the reasons set forth below.

The Court, based on a showing of good cause, may authorize Petitioner to conduct discovery in this proceeding under the Federal Rules of Civil Procedure. *See* Rules 1(b) and 6(a) of the Rules Governing Section 2254 Cases in the United States District Courts. In addition to a showing of good cause, to obtain leave to conduct discovery it is incumbent on Petitioner to (1) provide reasons for any requested discovery; (2) include copies of any proposed interrogatories and requests for admission; and (3) specify any requested documents. *See* Rule 6(b) of the Rules Governing Section 2254 Cases in the United States District Courts.

At this early stage of this proceeding, Petitioner's motions for discovery are premature. Respondent has not yet filed a response to Petitioner's *Petition for Writ of Habeas Corpus* (Doc. 1) and Petitioner has filed a *Motion for Leave to Amend Petition* (Doc. 9) which is pending. It is, therefore, too early for the Court to ascertain all of the issues in this case and determine whether, and what, discovery should be allowed pursuant to Rule 6(a) of the Rules Governing Section 2254 Cases in the United States District Courts. Consequently, the Court will deny Petitioner's motions without prejudice. Petitioner may renew his requests for discovery *after* his pending motion to file an amended petition is decided *and* Respondent answers his petition, or amended petition, as the case may be. Petitioner will be required to comply with the rules of procedure as outlined herein.

**IT IS THEREFORE ORDERED** that Petitioner's *Motion to Conduct Limited Discovery* (Doc. 10) and his *Request to Produce Documents and Tangible Things* (Doc. 11) are **DENIED without prejudice** as premature.

**IT IS SO ORDERED.**

  
**LOURDES A. MARTÍNEZ**  
**UNITED STATES MAGISTRATE JUDGE**